

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8096 OF 2017

M/s. Dalmia Bharat Sugar	..Petitioner
Vs.	
Sangli District Central Co. Op. Bank Ltd. Sangli and Anr.	..Respondents

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Mr. G. S. Godbole a/w. Kaustubh Thipsay and Ketki Gadkari,
Advocate for Petitioner.

Mr. U. R. Mankapure, Advocate for Respondent No.1.

**CORAM : C.V. BHADANG, J.
DATE : 24th FEBRUARY, 2020**

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. Heard Mr. Godbole, learned counsel for the petitioner and Mr. Mankapure, the learned counsel for the first respondent.

2. This petition can be disposed of by consent of parties on a short count.

3. The first respondent in a dispute which is pending before the Co-operative Court had sought amendment of the dispute as well as impleadment of the petitioner who is an auction purchaser under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act' for short) and the Maharashtra State Co-operative Bank, Mumbai ('MCS Bank' for short) as a party respondent which application was dismissed by the Co-operative Court by an order dated 7/7/2016

(below Exhibit 173). The first respondent challenged the same before the Maharashtra State Cooperative Appellate Court, Mumbai Bench at Pune, in Revision Application No.49/2016. The Cooperative Appellate Court by the impugned judgment and order dated 7/11/2016 has partly allowed the revision application granting the impleadment of the petitioner. The Cooperative Appellate Court has found that the petitioner who is an auction purchaser is a necessary party. During the course of arguments, at bar, it transpired that Cooperative Appellate Court while partly allowing the revision application has only allowed the impleadment of the petitioner. The Cooperative Appellate Court has refused to grant impleadment of the MCS Bank. The impugned order shows that the substantive amendment to the dispute including pleadings and the prayer clause have not been adverted to.

4. Faced with this, learned counsel for the first respondent, on instructions, states that the revision application may be remitted back to the Cooperative Appellate Court for deciding it afresh and in accordance with law. Learned counsel for the respondent, on instructions, states that the respondent will not press for any substantive relief against MCS Bank or impleadment of the MCS Bank. The statement so made is accepted. In view of the said statement, no adverse order is going to be passed against the MCS Bank.

5. In the result, by consent of parties, the petition is disposed of in the following terms.

ORDER

1. The petition is partly allowed.

2. The impugned judgment and order dated 7/11/2016 to the extent allowing impleadment of the petitioner is hereby set aside.

3. The revision application No.49/2016 is restored back to the file of Cooperative Appellate Court, Mumbai, Bench at Pune, for deciding it afresh on its own merits and in accordance with law.

4. While deciding said revision application, the Cooperative Appellate Court shall take note of the fact that the petitioner is not pressing for any substantive amendment against MCS Bank and the impleadment of the said Bank.

5. The Cooperative Appellate Court shall consider the rest of the application seeking amendment of the substantive pleadings and prayer clause as against the petitioner and impleadment of the petitioner.

6. All the rival contentions of the parties are let open.

7. The parties to appear before the Cooperative Appellate Court on 16/3/2020.

8. The petition is disposed of in the aforesaid terms, with no order as to costs.

C.V. BHADANG, J.

This order is corrected as per speaking to the minutes of the order dated 12/4/2022.